

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE INQUIRY OF BONA FIDE REQUEST	)	
OF JTC COMMUNICATIONS, INC.	)	
PURSUANT TO THE TELECOMMUNICATIONS	)	
ACT OF 1996, FOR NEGOTIATION OF AN	)	
INTERCONNECTION AGREEMENT WITH	)	
ALLTEL KENTUCKY, INC.; BALLARD RURAL	)	
TELEPHONE COOPERATIVE CORPORATION,	)	
INC.; BRANDENBURG TELEPHONE COMPANY,	)	
INC.; DUO COUNTY TELEPHONE COOPERATIVE	)	
CORPORATION, INC.; FOOTHILLS RURAL	)	CASE NO.
TELEPHONE COOPERATIVE CORPORATION,	)	2000-354
INC.; LOGAN TELEPHONE COOPERATIVE, INC.;	)	
GEARHART COMMUNICATIONS COMPANY, INC.	)	
F/K/A HAROLD TELEPHONE COMPANY	)	
D/B/A COALFIELD'S TELEPHONE COMPANY;	)	
MOUNTAIN RURAL TELEPHONE COOPERATIVE,	)	
INC.; PEOPLES RURAL TELEPHONE COOPERATIVE	)	
CORPORATION, INC.; SOUTH CENTRAL RURAL	)	
TELEPHONE COOPERATIVE CORPORATION, INC.;	)	
THACKER-GRIGSBY TELEPHONE COMPANY, INC.;	)	
AND WEST KENTUCKY RURAL TELEPHONE	)	
COOPERATIVE CORPORATION, INC.	)	

O R D E R

By separate letters all dated July 5, 2000, JTC Communications, Inc. ("JTC") notified each of the above-named rural incumbent local exchange carriers ("rural ILEC"), pursuant to 47 U.S.C. §§ 251 and 252, that it is making a bona fide request to each for negotiation of an agreement for interconnection, services, or network elements.

Pursuant to 47 U.S.C. § 251(f)(B), by separate letters dated July 7, 2000, received and filed by Commission Staff on July 11, 2000, JTC submitted “notice” to the Commission of the above-named bona fide request made to each rural ILEC.

Subsequently, by letters dated August 10, 2000, received and filed by Commission Staff on August 11, 2000, JTC withdrew each and all rural ILEC letters of notice of its bona fide request received and filed by Commission Staff on July 11, 2000. The basis for withdrawal of the notifications was that “JTC and these companies have agreed to negotiate in good faith for wholesale pricing of re-sale services.” No objection is raised by any of the rural ILECs.

As JTC initiated the requests, the Commission should allow it to withdraw them. However, the parties to this proceeding are hereby put on notice that the Commission has held, in Case Nos. 2000-027<sup>1</sup> and 2000-083,<sup>2</sup> that even a negotiated agreement will not be found to be in the public interest pursuant to 47 U.S.C. § 252(e)(2) if the incumbent’s wholesale rate to resellers is identical to its tariffed rates. Instead, the rates must be at a properly calculated avoided cost discount applicable to the incumbent in question. Moreover, any carrier wishing to assert the rural exemption to incumbent carriers’ obligations under the Telecommunications Act of 1996 should assert its exemption at the outset of negotiations, so that proceedings may begin pursuant to 47 U.S.C. § 251(f)(1). Such proceedings, in regard to the assertion of the rural

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<sup>1</sup> Case No. 2000-027, The Interconnection Agreement Between Universal Telecom, Inc. and ALLTEL Telecommunications Service Corporation.

<sup>2</sup> Case No. 2000-083, The Application by Comm South Companies, Inc. d/b/a Kentucky Comm South and ALLTEL Communications Service Corporation for Approval of Resale Agreement Pursuant to the Federal Telecommunications Act of 1996.

exemption by ALLTEL Kentucky, Inc., are now underway in Case Nos. 2000-027 and 2000-083.

The Commission, having considered the request and being otherwise sufficiently advised, HEREBY ORDERS that JTC's request to withdraw all of its notices of bona fide requests for interconnection, services, and network elements from each of the rural ILECs named herein is granted, and the case is dismissed without prejudice.

Done at Frankfort, Kentucky, this 2<sup>nd</sup> day of November, 2000.

By the Commission

ATTEST:

  
Executive Director